



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-1370 FAX (603) 271-1381

September 4, 2002



Mr. Tony Giunta
City of Franklin
316 Central Street
Franklin, New Hampshire 03235

CERTIFIED MAIL (7099 3400 0003 0687 1984)
RETURN-RECEIPT REQUESTED
LETTER OF DEFICIENCY
No. ARD 2002-009

RE: Open Burning of Non-Conforming Materials

Dear Mayor Giunta

On July 26, 2000, and June 25, 2002, the New Hampshire Department of Environmental Services, Air Resources Division ("DES"), performed inspections at the Franklin Solid Waste Transfer Station ("the Facility") located on Punch Brook Road in Franklin, NH. The purpose of the inspections was to determine compliance with the NH Admin. Rules Env-A 100 *et seq.*, specifically, Env-A 1000, *Prevention, Abatement, and Control of Open Source Air Pollution* and Authorization to Burn No. OB-00005715 ("the Authorization") which authorizes the City of Franklin to operate a municipal burn site for untreated wood and brush.

At the time of the July 26, 2000 visit, the DES inspector observed and photographed the following non-conforming materials in the burn pile: charred painted wood, plywood, wafer board, and insulation. The DES inspector discussed the presence of this non-conforming material in the burn pile with the Transfer Attendant, Roger Champagne.

On August 28, 2000, DES sent a copy of the inspection report and a letter to the City of Franklin outlining the results of the July 26, 2000 inspection and DES's concern regarding the non-conforming material observed at the burn site. The letter also included a list of materials that can be burned in accordance with the Authorization and Env-A 1000. Lastly, the letter outlined several ways to prevent non-conforming material from entering the burn area.

During the June 25, 2002 inspection, the DES inspector again observed and photographed non-conforming materials in the burn pile, including charred plywood and wafer board. The DES inspector reviewed the inspection results with Roger Champagne and mailed a copy of the report to the Franklin City Offices.

Based upon these findings, DES has determined that the Facility has been operating in violation of Env-A 1001.04(a)(2), Division Authorization for Certain Open Burning. Env-A 1001.04(a)(2) restricts any city or town from burning anything except brush or untreated wood. Only brush and untreated wood, as defined below, should be accepted and treated at the Facility

- a. Env-A 101.54 defines **Brush** as "tree tops, limbs, saplings and tree cuttings, to include attached leaves, which are five (5) inches in diameter or less"; and
- b. Env-A 101.286 defines **Untreated wood** as "timber, board or sawn dimensional lumber, which has not been treated, coated or preserved. This term does not include any manufactured building material, such as plywood or wafer board."

DES believes that the above-referenced deficiencies can be resolved if the Facility adheres to the following procedures:

Burn only brush and untreated wood as described in the Authorization, Env-A 101.54 and Env-A 101.286. Separate materials that do not meet the specifications of Condition 2 of the Authorization, Env-A 101.54 and Env-A 101.286 from the burn area; and

- 2 Submit a written statement to DES within ten (10) days of receipt of this Letter of Deficiency attesting that if open burning activities continue, they will be conducted in accordance with the Authorization and Env-A 1000. Send this written statement to:

Joseph Ritz, Enforcement Specialist
New Hampshire Department of Environmental Services
Air Resources Division, Compliance Bureau
6 Hazen Drive, P.O. Box 95
Concord, NH 03302-0095

In the event compliance is not achieved within the specified time frame, DES may initiate formal action, including issuing an order requiring the deficiencies to be corrected and/or referring this matter to the NH Department of Justice. DES reserves the right to pursue administrative fines for the violations noted above.

If you have any questions concerning this Letter of Deficiency, please contact Joseph Ritz, Compliance Bureau, Air Resources Division, at (603) 271-1391.

Sincerely,



Pamela G. Monroe
Compliance Bureau Administrator
Air Resources Division

PGM/jwr

Enclosure: Authorization to Burn No. OB-00005715, Env-A 101.54, Env-A 101.286 and Env-A 1000
Notice of Inspection dated 6/25/00, 2 pages
Letter to Franklin Board of Selectmen dated 8/28/02, 2 pages

cc: G. Rule, DES Legal Unit
R. Kurowski, EPA Region I
R. Reed, DES WMD
AFS# 3301390464